UNITED NATIONS

E/NL.1997/6-10
28 April 1997
ENGLISH ONLY*

LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

ARUBA

Communicated by the Government of The Netherlands

NOTE BY THE SECRETARIAT

(a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.

(b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

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*Note by the Secretariat: This document is a direct reproduction of the texts communicated to the Secretariat by the Government of The Netherlands.

1993 no. 70

STATE ORDINANCE of December 22, 1993 containing regulations concerning the penalization of laundering money, securities, and claims (State Ordinance Penalization Laundering).

Issued December 28, 1993

The Minister of Justice
H.R. Croes

IN THE NAME OF THE QUEEN!

THE GOVERNOR of Aruba,

Having taken into consideration:

- that it is necessary to give implement Article 3 of the Treaty concluded in Vienna on December 20, 1988 against the illicit trade in narcotics and psychotropic substances (Treaty Gazette 1989, 97) and Article 6 of the Treaty concluded in Strasbourg on November 8, 1990 concerning the laundering, investigation, seizure and forfeiture of proceeds from crimes (Treaty Gazette 1990, 172);
- that it is desirable to implement the recommendations of the Financial Action Task Force on money laundering established in Paris in July 1989, as well as the recommendations of the Caribbean drug money laundering conference held in Aruba in June 1990;

Has, having heard the Advisory Council, in joint consultation with Parliament, laid down the following State Ordinance:

Article 1

1. The following persons shall be liable to either imprisonment not exceeding twelve years, or a fine not exceeding Afls. 1,000,000.-- or to both penalties, as being guilty of wilfully laundering money, securities or claims:

a. he who acquires, has in his possession, or transfers money, securities, or claims while at the time of the acquisition, having in possession, or the transfer of the money, the securities, or the claims this person knew or had to know that the money, the securities, or the claims was, or were acquired through criminal offense;

b. he who has in his possession or transfers wilfully, for profit purposes, money, securities, or claims acquired through criminal offense.

2. He who wilfully derives profit from the proceeds of money, securities, or claims acquired through criminal offense, shall be liable to the same penalty.

Article 2

He who habitually commits wilful laundering of money, securities, or claims, shall be liable to either imprisonment not exceeding sixteen years, or a fine not exceeding Afls. 1,250,000.--, or to both penalties.

Article 3

1. The following persons shall be liable to either imprisonment not exceeding four years, or a fine not ex-

ceeding Afls. 250,000.--, as being guilty of laundering money, securities or claims through default:

a. he who acquires, has in his possession, or transfers money, securities, or claims while at the time of the acquisition, having in possession, or the transfer of the money, the securities, or the claims this person should have suspected that the money, the securities, or the claims was, or were acquired through criminal offense;

b. he who has in his possession or transfers, for profit purposes, money, securities, or claims while this person has to suspect in reason that the money, securities, or claims was, or were acquired through criminal offense.

2. He who derives profit from the proceeds of money, securities, or claims while this person has to suspect in reason that the money, the securities, or the claims was, or were acquired through criminal offense, shall be liable to the same penalty.

Article 4

The acts rendered punishable under this State Ordinance are felonies.

Article 5

1. In the event an act rendered punishable under this State Ordinance is committed by a corporate body under Aruban or Foreign law, criminal prosecution can be instituted, and the penalties provided for in this State Ordinance, and the measures provided for in the Criminal Code of Aruba (GG 1991 no. GT 50) can be imposed, if they are eligible therefor:

a. on the corporate body, or

b. on those who gave the order to this act, as well as on those who were actually in charge of the prohibited act, or

c. against those mentioned under a and b together.

2. For the application of the first paragraph, the non-corporate company, the partnership, and the terminal funding capital shall be put on a par with a corporate body.

Article 6

Article 11d of the State Ordinance Narcotics (GG 1990 no. GT 7) shall be worded as follows:

The provisions in the Articles 11a, 11b, and 11c as regards objects shall also apply to vehicles, vessels, and substances in as far as possible.

Article 7

1. This State Ordinance shall become effective as of the day after the day of its insertion in the Government Gazette of Aruba.

2. It may be referred to as State Ordinance Penalization Laundering.

Given in Oranjestad, December 22, 1993

O. Koolman

The Minister of Justice
H.R. Croes

State Ordinance containing regulations concerning the penalization of the laundering of money, securities, and claims (State Ordinance Penalization Laundering)

EXPLANATORY MEMORANDUM

General explanation

The last few years one may notice the trend that crime and criminality more and more often take place in an organized way. In most cases it concerns crimes involving large amounts of money. This gave rise to the opinion that fighting this kind of criminality can be taken up most effectively by tackle the perpetrators - in addition to imprisonment - on the point for which they committed the crime in the ~~first~~ place: financial gain. ~~After having~~ inserted the measure of seizure of fraudulently gained profit in Article 38e of the Criminal Code of Aruba (GG 1991 no. GT 50) for this purpose in 1988 already, it is desirable in addition to this in the Government's opinion, to render the laundering of money, securities, or claims punishable as a separate felony. By doing this one also gives effect to Article 3 of the Treaty concluded in Vienna on December 20, 1988 against the illicit trade in narcotics and psychotropic drugs (Treaty Gazette 1989, 97) and Article 6 of the Treaty concluded in Strasbourg on November 8, 1990 concerning the laundering, seizure and forfeiture of the proceeds from crimes (Treaty Gazette 1990, 172). The legislative proposals for Acts of the Realm to ratify these treaties have already been introduced in the Lower Chamber of the States General (22 080 [R1406], 22 081 [R1407]).

Also at an international level, one has been engaged in the fighting of money laundering for some time already. For this purpose the so-called G-7 countries (the seven largest industrial countries) i.a. established a Financial Action Task Force on money laundering in 1989. On February 7, 1990, this Task Force issued a report containing forty recommendations to realize this objective. This bill satisfies the national statutory measurers deemed necessary.

Finally, the Government observes that the 21 recommendations of the Caribbean drug money laundering conference held in Aruba in June 1990 have also played a role in drawing up this bill.

The penalization of laundering in relation to fencing:

In the Articles 431 through 432a of the Criminal Code of Aruba, fencing is rendered punishable (under the name "begunstiging" [helping a perpetrator of a punishable act after the offense has been committed, trans.]). In addition to this the Articles 11a through 11c of the State Ordinance

Narcotics (GG 1990 no. GT 7) contain special "begunstiging" provisions imposing considerably severer penalties. According to current jurisprudence the word "object" in these Articles is understood to also include "money", so that it may be said that money laundering is already punishable. It is once again explicitly stipulated in Article 11d of the State Ordinance Narcotics, for that matter, that for the purpose of this State Ordinance "objects" has to be understood to include moneys, other instruments of payment and claims. Nevertheless, the following considerations constitute reasons to render the laundering of money, securities, and claims punishable as a separate felony.

In the first place, in view of the necessity of effectively fighting the laundering of these objects, the aforementioned fencing provisions do not suffice. For they refer to the acquisition and possession of objects acquired through crime, but not to the offering or transfer of such objects. In the Government's judgment also the person who e.g. offers a bank an amount of money acquired through crime, has to be punishable. This is effected by means of the words "he who (...) transfers money" inserted in the Articles 1 and 3.

Contrary to the fencing provisions, the descriptions of felonies proposed are especially tailored to the laundering of money, securities, and claims. As already observed, the description of the felony, which is based on the relevant articles in aforementioned Treaties, widens the punishability of laundering, and simplifies the onus of proof for this felony. Consequently, this description of the felony enables the Public Prosecution and the police to act more decisively than on the basis of the general fencing provisions in the Criminal Code of Aruba.

In the second place the Government is of the opinion that the present punishment for money laundering (fencing) not acquired through drugs offenses, is too low; namely imprisonment not exceeding six years, if it concerns a habitual offense (Article 432 of the Criminal Code). Such a maximum penalty - as may be assumed - does not make enough impression on those who commit organized crime. Furthermore, it is pointed out that the difference in punishment between laundering drugs moneys and criminal moneys not coming from drugs offenses, is not very well defensible. Meanwhile, experience has shown that drugs traffickers also commit other forms of serious criminality, such as e.g. arms traffic. Laundering moneys acquired through this should not be less punishable than laundering drugs moneys. Moreover, it has appeared in the meantime that such a restriction of the penalization to laundering drugs moneys causes the necessary problems in rendering proof. For the Public Prosecution will have to prove that the suspect knew or should have known in reason that the money is coming from the narcotics trade; this is not simple in many cases, while, based on other information known to the Public Prosecution, it is plausible that it concerns "tainted" money. For the rest, it is repeated here what was stated in page 1 of this memorandum, that - in addition to imposing

the fine under this draft State Ordinance - also the withdrawal from circulation and the seizure of the fraudulently acquired profit can be imposed.

In the third place the Government observes that in the State Ordinance Narcotics habitual fencing is not rendered punishable. In view of the nature of such organized activities, one cannot do without the penalization of habitual laundering, especially in fighting organized crime.

Finally, the Government is of the opinion that, in view of the international attention to the fighting of laundering, it has to be made clear to the international community unambiguously, that laundering is punishable in Aruba, and that - in view of both the maximum penalties proposed, and the actual investigation and prosecution, fighting it is taken seriously. Furthermore, a separate penalization of laundering, as proposed in the present draft, whereby the wording of the description of the felony has been brought into line with the relevant articles in the international treaties, simplifies the international cooperation in the criminal field concerning laundering. In this connection it is of importance that also as regards a corporate body under foreign law it is provided that it can commit laundering, and that it is liable to punishment as such.

Explanation of each clause

Re Articles 1 through 3

The penalization of laundering proposed is a special "begunstiging" provision: a lex specialis of fencing. On the analogy of the fencing provisions in the Criminal Code of Aruba and the State Ordinance Narcotics, a distinction is made between wilful and habitual laundering and laundering through default. Article 1 penalizes wilful laundering. The second paragraph of both Article 1 and Article 3 proposed (also on the analogy of these fencing provisions) penalize the wilful derivation of profit and the derivation of profit through default from money acquired through crime. There is question of this, for example, if one makes use of goods bought with criminal moneys.

The acts included in the description of the felony are: the acquisition, possession, and transfer. The acquisition and transfer of money, securities, or claims includes all acts resulting in somebody's acquiring or transferring the actual control of the money or the claim. Possession covers any actual possession, irrespective of the purpose for which one has it, or the title on which it is based. For possession it is not necessary that one can always dispose of the money without delay. It also includes being able to dispose of the money which is kept e.g. in a safe deposit abroad.

The intention is to render the person who accepts the money from the criminal, or who keeps it or disposes of it (again) liable to punishment. On the analogy of Article 3

of the Vienna Treaty and Article 6 of the Strasbourg Treaty, it is explicitly included in the description of the felony that at the time of the acquisition, possession, or transfer of the money, the securities, or the claims, the person in question knew or should have suspected in reason that the money is coming from a crime. Otherwise, the person, who at the time of the acquisition, possession, or transfer of the money, acted in good faith but finds out in course of time that the money was acquired through crime, would commit laundering as of that moment, as long as he has this money in his possession, or as soon as he transfers it. This would stretch the penalization of laundering too far. Persons who absolutely act in good faith and incur no reproach whatsoever, would be rendered punishable in that case. This is otherwise if these persons, who meanwhile found out that it concerns tainted money, keep or transfer it for profit purposes. The first paragraph of Article 1 renders these acts punishable. So, this provision does not intend to make it impossible for the acquirer in good faith, who later on discovers the criminal origin of the money, to dispose of the money with impunity. Only if he acts in this way "for profit purposes" is he liable to punishment.

It is included as a component of the proposed description of the felony that the money of the claim was acquired through crime. Therefore, as already explained above, laundering is not limited to drugs offenses. The penalization covers all kinds of crimes. It is immaterial whether the perpetrator of the crime through which the money or the claim was acquired, is personally punishable, whether the crime has become extinguished by limitation, or that another hindrance bars the prosecution, or whether the crime was committed within the scope of Aruban criminal law.

In the bill securities are understood to be all documents constituting evidence of a claim on a third person, for example registered stock, or bearer stock, bonds, checks, bills of exchange, and the like. Claims are understood to be personal rights on a third party.

The punishments proposed for the wilful felony of Article 1 and the "through default" variant (as proposed in Article 3) are in line with the punishments for wilful fencing and fencing through default in the State Ordinance Narcotics, respectively a maximum of twelve years imprisonment and a fine not exceeding one million florins, and a maximum of four years imprisonment and a fine not exceeding Afls. 250,000.-- florins. The same can be said of habitual laundering inserted in Article 2, by imposing a penalty hereon not exceeding sixteen years and a fine not exceeding Afls. 1,250,000.-- florins. Just like in case of a conviction under the State Ordinance Narcotics, for that matter, these penalties can also be imposed together.

Re Article 4

In view of the seriousness of the acts rendered pun-

ishable in this bill, it is self-evident in the Government's opinion that it concerns felonies here.

Re Article 5

In anticipation of a general regulation concerning the penalization of corporate bodies, which the Government intends to have inserted in the Criminal Code of Aruba, it is proposed in this Article to provide that also corporate bodies can commit the felonies of this bill, and consequently are punishable as well. In this way, if necessary, one will also be able to take action against banks and other institutions that commit laundering.

Re Article 6

Now that it is proposed to penalize the laundering of money, securities, and claims separately, laundering will no longer be prosecuted based on the special fencing provisions in the State Ordinance Narcotics, therefore it is proposed to delete the words "moneys and other instruments of payment" from Article 11d of this State Ordinance.

The Minister of Justice,

was signed:
H.R. Croes

1995 No. 85

State Ordinance of December 20, 1995 concerning the obligation to report unusual transactions in rendering financial services (State Ordinance Obligation to Report Unusual Transactions)

Issued December 29, 1995

The Minister of Justice
E.J. Vos

IN THE NAME OF THE QUEEN!

THE GOVERNOR of Aruba,

Having taken into consideration:

that it is desirable, for the implementation of the recommendations 9, 10, 15, 16, 17, 18, 20, 24, 28, and 32 of the Financial Task Force on Money Laundering of May 30, 1990, to make the reporting of unusual transactions in rendering financial service obligatory, in order that by doing so a contribution can be made to the suppressing of the use of the Aruban financial system for laundering money proceeding from criminal activities.

Has, having heard the Advisory Council, in joint consultation with Parliament, laid down the following State Ordinance:

Chapter I

General Provisions

Article 1

For the purposes of this State Ordinance and the provisions based hereon, the following shall be understood by:

a. Financial Service: performing the following acts in or from Aruba:
   1. the safe keeping of stock, banknotes, coins, currency notes, precious metals, and other assets;
   2. opening an account in which an amount in money,

stock, precious metals, or other assets can be kept;

3. renting out safe-deposit boxes;
4. making a payment on account of the cashing of coupons or similar documents of bonds, or similar securities;
5. concluding a life insurance agreement as meant in part h, as well as acting as an intermediary in the conclusion hereof;
6. making a payment on account of a life insurance agreement as meant under 5;
7. crediting or debiting an account in which an amount of money, stock, precious metals, or other assets can be kept, or cause same to be credited or debited;
8. exchanging Aruban florins or foreign exchange;
9. rendering other services to be designated by State Decree containing General Administrative Orders;

b. Client: the natural person or legal entity to whom/which, or for the benefit of whom/which a financial service is rendered, as well as, in case of a financial service as meant in part a, under 5 and 6, the one who pays the premium, as well as those for the benefit of which the payment is made;

c. Transaction: an act or a complex of acts for the benefit of a Client in connection with buying one or more financial services;

d. Unusual Transaction: a transaction that may be designated as such based on the indicators laid down in pursuance of Article 10;

e. Report: a report as meant in Article 11;

f. Reporting Center: the reporting center meant in Article 2;

g. Commission: the commission meant in Article 16;

h. Life Insurance Agreement: an agreement whereby the insurer undertakes against payment of a premium to pay

benefits as a lump sum or in installments to the insurant or a beneficiary designated by the latter, and whereby the benefit based on the payment of premium is made dependent in one way or another on the being alive or the death of a certain person.

Chapter II

The reporting Center Unusual Transactions

Article 2

There shall be a Reporting Center Unusual Transactions, which comes under the Minister of Finance and under the direction of a Head.

Article 3

The task of the Reporting Center shall be:

a. the collection, recording, processing, and analyzing of the information it obtains in order to ascertain whether this information may be of importance to the prevention and detection of criminal acts.
b. furnishing information in conformity with the provisions by or in pursuance of this State Ordinance;
c. informing the person who made a Report in conformity with Article 11 with a view to the correct compliance with the obligation to report, as regards the disposal of the report. In that case this person shall only be informed whether furnishing the information took place in conformity with part b;
d. to inquire into the developments in the field of money laundering and the improvement of methods to prevent and detect money laundering;
e. making recommendations, having heard the Central Bank of Aruba, for the relevant branches of industry concerning the introduction of adequate procedures for

internal control and communication and other measures to be taken for the prevention of the use of these branches of industry for money laundering;

f. providing information concerning the forms in which money laundering manifests itself and the prevention of money laundering;

g. reporting annually on its activities and its plans for the coming year to the Minister of Finance, and to bring this report to the knowledge of the Minister of Justice.

Article 4

1. The Reporting Center shall keep a register. The Minister of Finance shall be the keeper of the register.

2. The register shall only contain information obtained lawfully, and which is required for the purpose for which set up.

3. The register shall only contain information that was obtained lawfully, and is necessary for the object for which it was opened.

4. No information from the register shall be furnished, unless provided for by the rules by or in pursuance of this State Ordinance.

Article 5

1. For the purpose of a proper execution of its task, the Reporting Center shall be authorized to inspect the registers of the agencies and the officials charged with the detection and prosecution of punishable acts.

2. The agencies and officials mentioned in the first paragraph are obligated to allow the Reporting Center the inspection meant in the first paragraph.

Article 6

The Reporting Center is obligated to provide the agencies and officials charged with the investigation and prosecution of criminal acts, with the following information:

a. information giving rise to a reasonable suspicion that a certain person committed money laundering or an underlying criminal act;
b. information of which it can be assumed in reason that it is of importance to the detection of money laundering or the underlying criminal acts;
c. information of which it can be assumed in reason that it is of importance to the prevention or detection of future criminal acts that may be underlying money laundering and which, in view of their seriousness or frequency, or the organized level at which they will be committed, constitute a serious infringement of the legal order.

Article 7

1. By State Decree containing General Administrative Orders, rules shall be laid down concerning the provision of information from the Reporting Center's register as well as the conditions on which this will take place, to agencies designated by the authorities, within or outside the Kingdom, having a task similar to the one of the Reporting Center.

2. The provision of information meant in the first paragraph to agencies outside the Kingdom shall only take place on the basis of a treaty.

Article 8

Appointment, suspension, and dismissal of the Head and the other members of the staff of the Reporting Center

shall take place, having heard the Commission, by State Decree by and with the advice of the Minister of Finance in agreement with the Minister of Justice.

Article 9

The Minister of Finance, having heard the Commission, and in agreement with the Minister of Justice, shall determine the budget and formation of the Reporting Center.

Chapter III

The obligation to report

Article 10

1. After consultation with the Reporting Center, and having heard the Commission, the Minister of Finance and the Minister of Justice shall jointly determine, for a period not exceeding six months, the indicators - if necessary per branches of industry and professional groups, or categories of Transactions to be distinguished for this purpose.

2. Based on the indicators, meant in the first paragraph, it shall be judged which Transactions have to be deemed unusual.

3. If necessary, the indicators shall be determined per branche of industry and professional group, after making a survey of the financial services rendered by the branche of industry or professional group concerned.

4. The indicators meant in the first paragraph shall remain in force after the lapse of the period mentioned in the first paragraph, if they are sanctioned by State Decree containing General Administrative orders within this period of time.

Article 11

1. Anyone who renders a Financial Service by virtue of his profession or business, is obligated to promptly report to the Reporting Center a transaction performed or intended to be performed, which is deemed unusual based on the indicators meant in Article 10.

2. In as far as possible a Report shall contain the following information:

a. the Client's identity;
b. the nature and number of the Client's identity card;
c. the nature, the time, and the place of the Transaction;
d. the size and in case of a Financial Service meant in Article 1, part a, under 7, the destination and origin of the moneys, stock, precious metals, or other assets involved in the Transaction;
e. the circumstances based on which the Transaction is deemed unusual.

Article 12

1. The Reporting Center shall be authorized to request additional data or information from the person who made a Report, as well as from the person who, due to the rendering of a Financial Service as meant in Article 1, part a, under 7, is involved in a Transaction concerning which the Reporting Center has collected information, in order to be able to judge whether information collected has to be furnished based on its task meant in Article 3, part b.

2. The person from whom information or data is requested in conformity with the first paragraph, is obligated to provide same in writing, as well as - in urgent cases in the judgment of the Reporting Center - orally, within the period of time stipulated by the Reporting Center.

Article 13

By State Decree containing General Administrative Orders, additional rules may be given concerning the way in which a Report has to be made, respectively data and information requested in pursuance of Article 12, first paragraph, have to be provided.

Article 14

1. Data and information supplied in conformity with the Articles 11 or 12, second paragraph, cannot serve as basis for, or for the purposes of, a criminal investigation or prosecution on account of suspicion of, or as evidence in connection with a charge on account of infringement of the State Ordinance Penalization Money Laundering (SPG 1993, No. 70)[1/] by the person who provided these data or information.

2. The first paragraph shall similarly apply to the person who is employed by the person who supplied data or information in conformity with the Articles 11 or 12, and who has assisted therein.

Article 15

The person who proceeded to make a Report based on Article 11, shall not be liable for the damage suffered by a third party in consequence hereof, unless it is made plausible that, in view of all facts and circumstances, one should not have proceeded to reporting in reason.

Chapter IV

The Counseling Commission

1/ E/NL.1997/6

Article 16

1. There shall be a Counseling Commission for the Reporting Center.

2. The Counseling Commission shall consist of no more than twelve members, and it shall determine its own working procedures.

Article 17

1. the commission shall consist of representatives of:

a. the Ministry of Finance;
b. the Ministry of Justice;
c. the branches of industry falling under the scope of this State Ordinance;
d. the supervisory authorities for the branches of industry falling under the scope of this State Ordinance;
e. the Public Prosecution;
f. the police.

2. The members members of the Commission shall be appointed and dismissed by the Minister of Finance on the recommendation of the agencies and institutions meant in the first paragraph. When composing the commission, the Minister of Finance shall seek a balanced distribution of the agencies/institutions represented.

3. A representative of the Ministry of Finance shall act as chairman of the Commission.

Article 18

The task of the Commission shall be:

a. to counsel the Reporting Center as regards its functioning;
b. to make its knowledge and expertise available to the Reporting Center;
c. to advise the Minister of Finance or the Minister of

Justice jointly if so requested, or on its own initiative, on i.a.:

1. the way in which the Reporting Center performs its task;
2. the determination of the indicators meant in Article 10;
3. the effectiveness of the obligation to report.

Article 19

The Counseling Commission can request information from the Reporting Center for the purpose of a proper performance of its task. The Reporting Center is obligated to provide this information. Personal data shall be provided in anonymous form.

Chapter V

Secrecy

Article 20

Any person, who by virtue of the application of this State Ordinance or of Decrees in pursuance of this State Ordinance performs or performed any task, is prohibited from using data or information supplied or received in pursuance of this State Ordinance, any further or in any other way, or to disclose it further or in any other way, than is required for carrying out his task, or than is required by this State Ordinance.

Article 21

1. The person who makes a Report in pursuance of Article 11, or who supplies further information or data in pursuance of Article 12, second paragraph, is obligated to keep this secret, except in as far as the necessity to

disclose it results from the objective of this State Ordinance.

2. The person who received data or information in pursuance of Article 3, under c, is obligated to keep this secret.

Chapter VI

Right of Inspection

Article 22

1. Any person shall be informed, upon his request, by or on behalf of the keeper of the register of the Reporting Center whether, and if so, what personal data concerning this person have been recorded in the register.

2. The information meant in the first paragraph shall not be given in as far as this is necessary for the proper performance of the task of the Reporting Center, or in case weighty interests of third parties require this.

3. In the event the request meant in the first paragraph is not granted, the person in question may apply to the Court in the First Instance, within two months after receipt of the rejection of the request, petitioning to order the keeper to comply with this request as yet. The Court shall allow this request in as far as it deems it well-founded.

Chapter VII

Supervision

Article 23

1. The officials of the Reporting Center designated by Decree of the Minister of Finance shall be charged with the supervision over the compliance with the provisions by or

in pursuance of this State Ordinance by those who are obligated to report as meant in Article 11, first paragraph. Such a designation shall be published by insertion in the Government Gazette of Aruba.

2. By State Decree containing General Administrative Orders rules may be laid down concerning the performance of the duties by the officials designated by virtue of the first paragraph.

3. The officials designated by virtue of the first paragraph shall be authorized exclusively in as far as this is reasonably necessary for the execution of their tasks:

a. to demand from anybody inspection of all books and documents, and to make copies thereof;

b. to enter all places, with the exception of dwelling houses.

4. If necessary, they shall gain access to a place as meant in the third paragraph, part b, with the aid of the strong arm.

5. In the exercise of powers as meant in the third paragraph, the supervisors shall identify themselves, unless, due to this, the objective of the supervision could not be attained due to this. In the latter case they shall identify themselves as soon as this is possible in reason.

Chapter VIII

Penal Provisions

Article 24

1. Infringement of, or acting in violation of, the provisions in the Articles 11, 12, second paragraph, 20, 21, and 23, third paragraph, or by virtue of Article 13, in as far as this took place intentionally, shall be liable either to imprisonment not exceeding four years, or a fine not exceeding five hundred thousand florins, or to both penalties.

2. Infringement of the regulations as meant in the first paragraph, in as far as not committed intentionally, shall be liable to either imprisonment not exceeding one year, or a fine not exceeding two hundred and fifty thousand florins, or to both penalties.

3. The acts rendered punishable in the first paragraph are felonies; the acts rendered punishable in the second paragraph are misdemeanors.

Article 25

1. In the event that an act rendered punishable in Article 24 is committed by or by order of a legal entity, criminal prosecution can be instituted and the penalties imposed either against this legal entity, or against those who ordered the act to be committed, or who actually were in charge of the prohibited act or omission, or against them jointly.

2. An act rendered punishable in Article 24 is committed i.a. by or by order of a legal entity, if it is committed by persons who, either by virtue of employment, or for other reasons, act in the sphere of the legal entity, irrespective of the fact whether these persons committed the punishable act individually, or that the elements of this act are to be found with them jointly.

3. If the criminal prosecution is instituted against a legal entity, it shall be represented during the prosecution by the manager/director, and in the event there are more managers/directors, by one of them. The representative may appear by attorney. The judge may order the appearance of a certain manager/director; in that case he may have him brought in by the strong arm.

4. As regards the acts rendered punishable in Article 24, legal entities shall be deemed to be domiciled, for the application of Article 19 of the Code of Criminal Procedure of Aruba, at the place where they are established.

5. In the event criminal prosecution is instituted

against a legal entity, the services, summonses, notices, notifications, or other communications prescribed in the Code of Criminal Procedure of Aruba shall be addressed to the person or the residence of the manager/director, and in the event that there are more managers/directors, to one of them, or to the place where the Board has its seat or office, except when it concerns a summons meant in Article 130, second and third paragraph of the Code of Criminal Procedure of Aruba.

6. For the application of the preceding paragraphs the non-corporate company, the partnership, and the terminal funding capital shall be put on a par with the legal entity.

Article 26

In the event the officials charged with the investigation, as well as the experts are denied access to a place which is a dwelling house, or which can only be reached via a dwelling house, then they shall only enter without the explicit permission of the occupant with a specific written warrant of the Public Prosecutor in the Common Court of Justice or the Court in the First Instance, and - in case no one of them is an official as meant in Article 8, parts 1 and 3 of the Code of Criminal Procedure of Aruba - in the presence of the assistant prosecutor.

Chapter IX

Final provision

Article 27

1. This State Ordinance shall become effective on a date to be stipulated by State Decree.

2. It may be referred to as the State Ordinance Obligation to Report Unusual Transactions.

The Minister of Finance,
A.W. Engelbrecht

Given in Oranjestad, December 20, 199
O. Koolman

The Minister of Justice